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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,486	09/14/2006	Shoji Yuyama	2006_1232A	9888
513	7590	04/08/2011	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503			MAUST, TIMOTHY LEWIS	
			ART UNIT	PAPER NUMBER
			3751	
			NOTIFICATION DATE	DELIVERY MODE
			04/08/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

[ddalecki@wenderoth.com](mailto:ddalecki@wenderoth.com)  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/587,486	YUYAMA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Timothy L. Maust	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 September 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4, 6-9 and 13-16 is/are rejected.  
 7) Claim(s) 5 and 10-12 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 26 July 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/27/06</u> .   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 6 and 13-16 are objected to because of the following informalities: In lines 3 and 5, "tables" should be "tablets". Appropriate correction is required.

Claims 10-12 are objected to because of the following informalities: In lines 3 and 5, "have hold the vial" is grammatically incorrect. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 6, 7 and 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 3 and 7, it is unclear as to what is being detected. Is the position of the gripping arms being detected or the position of each individual holding member with respect to one another being detected?

Regarding claims 6 and 13-16, it is unclear as to what structure "the waiting space has a plural space" defines.

Claim 13 recites the limitation "in the same space" and "in the different space" in lines 3 and 5. There is insufficient antecedent basis for this limitation in the claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuyama et al. (6385943) in view of Osborne et al. (6604903).

Regarding claim 1, 4, 8 and 9, the Yuyama et al. reference discloses a tablet storage and take-out apparatus (Figure 1) also capable of handling filled vials, comprising:

plural pairs of holding members (31 and 41; see Figure 6) for holding a barrel of the vial (12), the plural pairs of holding members being provided at a waiting space so as to be opposed to each other and are juxtaposed in a line in a depth direction; but doesn't disclose stock sensors for detecting whether the vial is held by the plural pairs of holding members or not, the stock sensor being provided so as to correspond to the plural pairs of holding members. However, the Osborne et al. reference discloses another vial storage apparatus (Figure 1) having a gripper assembly (312, 322; see Figures 3 and 4) including sensors (i.e., pressure sensors) to ensure that a vial is securely held while preventing excess pressure from being applied on the vial body. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ sensors on the Yuyama et al. holding members as, for

example, taught by Osborne et al. in order to ensure that a vial is securely held while preventing excess pressure from being applied on the vial body.

Regarding claim 2, the Yuyama et al. reference further having the plural pairs of holding members provided with concave portions (see gripping fingers 31 and 41 in Figures 5 and 6) opposed to each other: the plural pairs of holding members are supported so as to pivot around two shafts that are away from each other by a distance larger than the diameter of the vial so that the concave portions can come close to and move away from each other (see col. 5, lines 18-21; and lines 47-50); the plural pairs of holding members are urged so that the concave portions can come close to each other; and the concave portions can pinch and hold the barrel of the vial so that the center of the vial is positioned between the concave portions (see col. 5, lines 27-33; and lines 55-60).

Regarding claims 3 and 7, the sensors of the Yuyama et al. device detect pressure, which would indicate whether the holding members (i.e. grippers) are close or away from each other.

### ***Allowable Subject Matter***

Claims 5 and 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 6 and 13-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of record pertains to various vial dispensing devices, similar to Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/

Application/Control Number: 10/587,486  
Art Unit: 3751

Page 6

Primary Examiner  
Art Unit 3751

3/30/11